IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17536 of 2004

Between:

1 Syed Imtiazuddin, S/o. Syed Mahabobuddin,
R/o. Santoshnagar Colony, Medhipatnam, Hyderabad.
2 Syed Muntabuddin, S/o. Syed Mahabobuddin,
R/o. Santoshnagar Colony, Medhipatnam, Hyderabad.
3 Syed Mujeebullah Hussaini, S/o. Syed Nizamuddin Hussaini,
R/o. Santoshnagar Colony, Medhipatnam, Hyderabad.
4 Syed Habeebullah Hussaini, S/o. Syed Nizamuddin Hussaini,
R/o. Santoshnagar Colony, Medhipatnam, Hyderabad.
5 Syed Kaleemullah Hussaini, S/o. Syed Nizamuddin Hussaini,
R/o. Santoshnagar Colony, Medhipatnam, Hyderabad.

..... PETITIONER(S)

AND

1 The Joint Collector, Medak District at Sanga Reddy.
2 The Revenue Divisional Officer, Medak.
3 The Mandal Revenue Officer, Medak Mandal and District.
4 M. Janardhan Reddy, S/o. sivaram Reddy,
R/o. Macharam Village, Medak Mandal and District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, order or Direction, declaring the Order dated 23-3-2004 in Proc.No.F3/14/ROR/96-F3/543/96 on the file of the first respondent and the Order dt. 30-6-1994 passed in File No. I/3293/93 on the file of the 2nd Respondent confirming the proceedings dt. 31-10-92 in File No. E/2850/89 on the file of the third respondent, as illegal, arbitrary, without jurisdiction and contrary to the provisions of A.P. Record of Rights in Lands & Pattedar Passbooks Act, 1971 and Award Costs.

Counsel for the Petitioners:MR.K.RAGHUVEER REDDY
Counsel for the Respondents 1 to 3: GP FOR REVENUE
Counsel for the Respondent No.4: None appeared.

The Court made the following :

ORDER:

Heard the learned counsel on either side and with their consent the writ petition itself is disposed of at the stage of admission.

By means of moving this court under Article 226 of the Constitution of India, the petitioners seek a Writ of Mandamus declaring the orders passed by the 1st respondent-Joint Collector dated 23.3.2004 in proceedings No.F3/14/ROR/96-F3/543/96 as illegal.

The petitioners claim to be in possession of the lands of which Syed Sharfuddin Hussaini was the Pattedar of the survey numbers and the said land was a government land which was purchased by Sharfuddin in an extent of Ac.23.02 guntas for which patta was granted by the Collector in the year 1338 Fasli in favour Sharfuddin. The MRO court erroneously passed an order validating the sale in favour of the 4th respondent herein, against which the petitioners filed

an appeal before the RDO under Section 5 (5) of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act'), which was dismissed. In view of the same, they filed the above revision claiming that Syed Mohiuddin Hussain Quadry is not entitled to sell the subject matter of the land under agreement of sale in favour of the 4th respondent without their consent and the MRO has failed to issue notice before validation of the said sale in favur of the 4th respondent. When the petitioners filed an application before the Recording Authority to transfer succession, it was rejected on 9.8.1990 on the ground that the subject matter of the land was sold and in view of the same there was a delay of 474 days in filing the revision and the same has to be condoned.

It is their case that after the death of their grandfather, Syed Mohiuddin Hussaini's name was entered in Khasara Pahani in 1954-55, who is the eldest son of Sharfuddin and taking the advantage of the said entry, he executed the sale agreement in favour of the 4th respondent herein which is not binding on them and the said revision was filed through GPA holder. The Joint Collector, after going through the entire record, held that as per the Khasara Pahani, the subject matter of the land is patta land of Syed Mohiuddin, which was recorded prior to revised assignment policy issued vide G.O.Ms.No.1406 dated 25.7.1958 and the claim that it is a government land patta was granted in favour of Syed Mohiuddin has not been accepted. When Syed Mohiuddin, who was pattedar of the land sold an extent of Ac.8.28 guntas in Sy.No.248/4, and extent of Ac.14.14 guntas in favour of the 4th respondent herein by an agreement of sale after paying the entire sale consideration, he was

put in possession of the property. When the 4th respondent filed an application for validation of sale transaction of the subject matter of the land and after completing necessary formalities as required under the Act, the unregistered sale deed is regularized under Section 13-B of the Act. The petitioners have not filed any documentary evidence for filing of any appeal against the succession petition, which was dismissed on 9.8.1990 and the petitioners were not at all in possession of the property at any point of time. Moreover, the RDO, while dismissing appeal concluded that the petitioners have not explained why they have kept quiet for the last 27 years without claiming their share in the property. More so, some portions of the subject matter of the land was acquired for construction of A.P. Residential school for girls and advance possession was taken from the 4th respondent and there was no evidence for filing objection petition by the petitioners before the Land Acquisition Officer for acquisition of the land nor claiming any possession. When the petitioners failed to establish their right over the property, and not properly explained the delay in the condonation petition in preferring the petition, which was rejected and the revision was dismissed on merits.

The facts as narrated above clearly disclose that the petitioners except stating their grandfather was the original owner of the property for which they have succeeded, have not produced any documents even before this court to establish their right in the said property and the submission made by the learned counsel for the petitioners that the petitioners are still in possession of the property and they are entitled to be issued a notice before validating the sale cannot be

countenanced in view of the fact that admittedly the portion of the property was acquired for public purpose and possession was taken from the 4th respondent herein and the said fact has not been denied nor controverted. In view of the same, the above litigation resorted to by the GPA holder of the petitioners is nothing but speculative. In view of the same, the Joint Collector rightly declined to exercise the revisional jurisdiction and I see no infirmity in the order warranting interference by this court.

The writ petition is accordingly dismissed. No costs.

30.9.2004

CVM

To,

1 The Joint Collector, Medak District at Sanga Reddy.
2 The Revenue Divisional Officer, Medak.
3 The Mandal Revenue Officer, Medak Mandal and District.
4 M. Janardhan Reddy, S/o. sivaram Reddy,
R/o. Macharam Village, Medak Mandal and District.

5. 2 CCs to G.P. for Revenue, High Court of A.P., Hyderabad (OUT).

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